

From: Andre De Wolf
To: Microsoft ATR,microsoftcomments@doj.ca.gov@inetgw,...
Date: 11/21/01 12:36pm
Subject: Microsoft settlement

Sir or Madam,

I am very disappointed with the USDOJ settlement agreement with Microsoft. The proposed conduct remedy is in my opinion inappropriate and inadequate. There is no punishment for the unlawful actions of this company; I feel that the settlement is merely a slap on the wrist, and there is nothing in the decision that will prevent this company to continue with their business as usual. The company has no incentive to take the new conduct restrictions any more seriously than the old ones. After all, after the 1995 consent decree in which Microsoft agreed not to tie application software to the operating system, they did just that with MS Internet Explorer.

I am now also very concerned about the settlement regarding the private suits. Microsoft is proposing to donate \$1 billion in computers, software, training, and cash to settle private antitrust suits. Again, this is a slap on the wrist for this company with cash reserves of approximately \$32 billion. At least a large part of these cash reserves is the result of illegal, anti-competitive, monopolistic actions by Microsoft. Returning only a small part of this illegally obtained money is incomprehensible to me. Also, the real cost to Microsoft of software bought by the schools is a fraction of what these schools will be charged; this will automatically reduce the total amount of Microsoft's donation.

More importantly, and very ironically, this settlement would even enhance the monopoly position of this company, by introducing more of its software into schools, an area where there has been traditionally more competition (e.g., from Apple) than in other areas. Matthew Szulik, CEO of Red Hat, stated that "We do not think that the remedy should be a mechanism by which Microsoft can further extend its monopoly;" I totally agree with this statement. I do not expect a public statement by Apple regarding this proposed settlement: Apple still needs Microsoft very much because of the importance of Office for Mac, and therefore it cannot afford to publicly criticize Microsoft.

Although it is very obvious that this deal could be beneficial for the schools involved, it inappropriately benefits Microsoft in too many ways. This deal is in no way curtailing Microsoft's power, which should be the goal of dealing with a monopolistic company. What is totally unacceptable is in the details of this agreement. Although the schools could use the donated money in any way they would want, it includes a statement that those using Microsoft-compatible

computers would receive more free software than others... Obviously this is a strong incentive for schools to purchase computers with the Windows operating system with the donated money.

In my opinion, the proposed donation by Microsoft would only be acceptable if the donated money could ONLY be used to buy equipment and software that is NOT made by Microsoft (for example, PCs with Linux, or Apple computers). In addition, Microsoft should not even be allowed to donate software to these schools that received donations; donation of Microsoft software again is an incentive for the schools to purchase computers compatible with or running Microsoft Windows. These modifications and restrictions in the proposed donation by Microsoft would actually reduce the monopoly position of this company, which should be the goal of any settlement, and it would benefit companies that have suffered from the illegal practices by Microsoft. This donation should only be part of a settlement; other punishments, restrictions, and actions are still very necessary in order to prevent Microsoft from continuing to illegally abuse its monopoly position.

I hope that the nine states that are still pursuing tougher sanctions against Microsoft do not give in as easily as the USDOJ, and will be looking for an appropriate punishment of the company that used illegal means to further improve its monopoly position. I also hope that the remaining states will include provisions to stimulate more and fair competition in the computer business.

It would be very ironic if the "punishment" for unlawfully using a monopoly position would be to allow Microsoft to further strengthen its stranglehold on the computer industry.

Sincerely,

Andre De Wolf, MD
Professor of Anesthesiology
Northwestern University Medical School
Chicago
Private address:
2381 Legends Court
Riverwoods IL 60015

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Andre De Wolf, MD
Department of Anesthesiology
Northwestern University
Chicago, Illinois
a-dewolf@nwu.edu